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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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ZIBALSTAR, L.C., a Utah Limited Liability  
Company, *et al.*,

Plaintiffs,

v.

ROBERT CONTE, an individual, *et al.*,

Defendants.

**ORDER DENYING MOTION TO  
CONSOLIDATE OR TRANSFER**

Case No. 2:17-CV-563

District Judge Jill N. Parrish

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Before the court is Defendant David Odenath's Motion to Consolidate or, in the Alternative, Transfer Case (ECF No. 254). Mr. Odenath indicates that, after the court dismissed this action for lack of subject-matter jurisdiction, the same plaintiffs filed a second, nearly identical action before Judge Jenkins. Mr. Odenath argues that the second action should be consolidated with this action or, in the alternative, transferred to promote judicial economy and efficiency.

This court has broad discretion in deciding whether to consolidate cases. *See Gillette Motor Transp. v. N. Okl. Butane Co.*, 179 F.2d 711, 712 (10th Cir. 1950). And the local rules contemplate that transfer or consolidation may be appropriate in certain circumstances. *See* DUCivR 42-1, 83-2(g). But the court will not consolidate or transfer here.

The court's dismissal in this case was based on the plaintiffs' obvious failure to plead RICO predicate acts. It did not require an evidentiary hearing or a difficult-to-come-by understanding of the underlying facts. Consequently, continuing to try the case pending in front

of Judge Jenkins will not entail substantially duplicative labor, costs, or delay. Therefore, Mr. Odenath's motion is **DENIED**.

Signed June 25, 2018

BY THE COURT



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Jill N. Parrish  
United States District Court Judge